

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Mark Carrie,)	Civil Action No. 2:10-cv-960-RMG
)	
Petitioner,)	
)	
vs.)	ORDER
)	
Warden John Owens,)	
)	
Respondent.)	
)	

Before the Court is Petitioner Mark Carrie's motion for an extension of time to file his objections to the Report and Recommendation in this matter. (Dkt. No. 31). In the motion, Petitioner informed the Court that he is not currently at FCI Williamsburg, the facility where he is serving his sentence. (*Id.*) Instead the United States Attorney's office for the Northern District of Georgia has Petitioner out on a *writ* stemming from Petitioner's participation in an ongoing trial in the Northern District of Georgia. Thus, Petitioner is now housed in a county detention center in Lovejoy, Georgia until the conclusion of the trial which is now on interlocutory appeal to the Eleventh Circuit. Petitioner has no access to his legal materials which remain at FCI Williamsburg.

Further, in light of Petitioner's absence from FCI Williamsburg, he has not received his mail as he would in the normal course. Because of his having not received mail he failed to object to the Magistrate Judge's Report and Recommendation. Therefore, this Court issued an order adopting the Magistrate Judge's recommendation to grant Respondent's motion for summary judgment. (Dkt. No. 26).


Based upon Petitioner's latest filing and the circumstances surrounding his temporary presence in a facility in Georgia, this Court hereby vacates its prior order (Dkt. No. 26). Further

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this Court denies Respondent's motion to dismiss, or in the alternative, motion for summary judgment, without prejudice and with permission to refile the motion at a later time. (Dkt. No. 12).

Petitioner is instructed to file a status report with this Court every forty-five (45) days to update the status of where he is currently held. The Clerk's office is hereby instructed to send any further orders or notices from this Court to both addresses provided by Petitioner until such time that Petitioner informs the Court he has been moved back to FCI Williamsburg. In light of the particular circumstances before the Court, once the Government refiles its motion, the Court will attempt to provide Petitioner adequate time to respond or make other accommodations should Petitioner continue to have a lengthy separation from his legal materials.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

February 23, 2011
Charleston, South Carolina